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Coffelt v. State Appellant's Brief Dckt. 40515

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Thomas Coffelt #30459

ISCL - MA-19A

P.O. Box 14

Boise Idaho 83707

Idaho Court of Appeals

Thomas Coffelt District CV-2012-3412

V

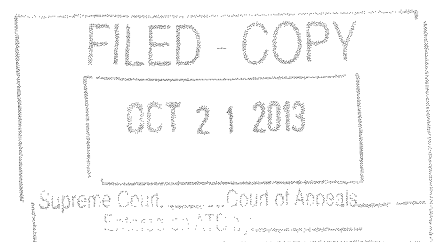
Warden Smith

Appellate - 40515-2013

Statement to notice
of withdrawal of counsel

Today of October 2013, I received
the Clerk's Record, from Third District
Court, from The State Appellate Public
Defender.

I have no ability to understand
just what I did wrong, because I do
have varied issues;



Thus: I have turned to another inmate
to help me.

Please accept this help he informally
is giving me.

Thank you

Thomas Coffelt # 304159
Thomas Coffelt

Cause and Prejudice;

C.R., 011, Motion / Affidavit for Council, #4.:
"Relation Back" (Principle), R.C.V.P. 15(c) (generally);

1. R.C.V.P., 55 (b), and Tennessee v. Lane, 541 U.S. (2004) draws the diminished mental capacity of the Petitioner into a genuine issue.

The scribbled, generally incoherent, and deficient action speaks for itself of the heightened inability of the Petitioner.

Petitioner has a sixth-grade education, and since 1999 has been receiving psychological care, and included in such care does take psychotropic medication on a daily basis.

Further; under "Etiology", that which affects the mind affects the body (visa-versa) that which affects the body affects the mind; thus the mental hindering and chilling is exacerbated by physical and mobility disability.

obstruction of justice. Appendix A.

b.) The Courts have continually recognized the denial of a Law Library is a prejudice to prisoners.

c.) The Bad Faith, under the Americans With Disabilities Act, II., codified at 28 C.F.R. Part 35, under authority of §35.190(h)(6), is a discrimination, §35.130, §130(h)7; and, a Retaliation and unlawful Coercion, §35.134.

Ref: Raytheon v. Hernandez, 540 U.S. (2003)

MR Coffelt asks for Judicial Review, Marbury v Madison 5 U.S. 137, 163-168 (1803) of Fiduciary misconduct; and extend the (Appendix) Lindquist, 776 F.2d; Gomez Cruz; Bounds U.S.; Wheeler, Res Judicata - "Prejudice", to excuse the deficiencies, errors, omissions of the Petition, Petitioner.

Under (in-part or whole) of the Ex re: (A.D.A. Order, Ida. Sup. Ct., Jan. 1998.

2. The State, ..., cannot mount any defence they have denied the Petitioner fair and just access to court solely upon his disabilities from a standing in "Bad Faith."

124 F.2d 875, 883

a.) In Balla III., U.S. District Court - Idaho, CV-81-1165, DKT. 585, 9/14/2005, (et al); The State showed they were knowledgeable of the Law, and filed a Motion to Terminate, (the) Balla Mandate;

In Lindquist v. Ida. Bd. of Corr., 776 F.2d 851, 851-56 (9th Cir. 1985); (Affirmed) in U.S. District, Idaho, Gomez v. Vernon, CV 91-299-5-LMB, Order 16. Dec 1994;

to provide a Law Library and Assistance for Literacy Challenged.

The State in 1998, Removed the Prison Law Library and Discontinued the Legal Assistance Program; without permission.

b.)

In The Civil Rights Act of 1960, at §, 1564, the "violation of a Court Mandate is a criminal

Mr Coffelt has asked for assistance to present issue to the Court. Informal Assistance.

In review of Clerks Record, Mr Coffelt would have to agree with the District Court, C.R. Trans. pg. 18, the R-35 issue was properly dismissed; and

the Original Post Conviction was to vaugz; leading to the Appointed - Petitioners Council to file an Amended Petition / Affidavit, that did not properly raise and support all issues, C.R. Trans. pg. 23., at 4., 10, (i.e.) that C.R. Trans. pg. 22, only reviewing R-35 issues.

Thus on it's face, the dismissal was reasonable; however,

Mr Coffelt would ask for this Appellate Court to review if cause and prejudice prevented a Post Conviction from being properly presented; and

if herein, a proper, genuine issue can be remanded?

Issue;

From above cause and prejudice, the Petitioner does claim that he was denied the knowledge, of the Standards of law; thus there is no tolling of any Constitutional claim, (etc.); and all issues are New Issues, New Fact; (etc.).

E.

a) The issues hinge on *Drop V. Dulles*, 356 U.S. 86, 101 (1958), Applying the "Evolving Standard of Decency" to "access to parole"; or, Release from custody. C.R. pg. 24., citing *Jones* 371 U.S., Probation, (Parole) is a continuing confinement. (See *Alton*, A.D.A., Parole; *Olmstead V. L.C.*, 119 S. Ct 2176 (1999) "Integrated Settings".

b) C.R. pg. 27, *Balla V. Idaho Board of Corrections*, 595 F. Supp. 1556 (9th Cir 1984) at 14., 17., the criminal conduct was the result of a mental psychosis, requiring psychological rehabilitation. Same C.R., pg. 7., *State V. Leech*, 20 P.3d 709 (Ida App. 2001), (Alton pg 24, *Beebe V. Heil*, 333 F. Supp.

2d 1011 (D. Colo. 2004) ; Kansas 521 U.S. 346 (1997);
Kansas 534 U.S. 407 (2002), Watkins C.R. pg. 26, 28,
U.S.C.A., Amend. 8, etc.

c.) The above (b) generally raises a Due Process
liberty interest; and raise a Due Process
liberty interest, within the U.S.C.A. Amend Eight,
Medical-Rehabilitation issue; (see also) Due
Process liberty in A.D.A, Integrated Settings,
and below I.C. title 66.

Further Due Process liberty interest is joined
to a U.S.C.A., Article I., § 9., Cl. 3. Ex Post Facto-Claim.

d.) The Statutory Law, as it stood at the time
of sentencing; I.C. § 19-2513, C.R. pg 97 at
first par., etc., State v. Leech, 20 P.3d 709 (Ida,
App. 2001), is not applicable because the State
has affirmed retribution and deterrence does
not apply to psychological rehabilitation;
lid.) punishment for conduct caused by a mental psy-
chosis is not lawful; here-upon,

(C.R. 07) C.R. Pg. 24 - , The Sentence is imposed under [I.C. § 19.2520] I.C. § 19.2523, and to be Regulated [§ 19.2523 at Reference] by I.C. title 66, [§ 66.335, § 66.337, etc]. as a civil commitment, (same C.R. Pg. 24, Allen v. Illinois, 478 U.S. 364 (1986)).

e.) Without knowledge of why (?), (C.R. pg 05) , the Prosecutor would seek a sentence non compliant to Statute; Why Defence Council would not argue for a sentence within statute; or the Court would set a sentence outside of Statute.

Never-the-Less, a Desparate Sentence claim (C.R. pg 07, 020, 022) has merit, under the Instant Case of (New Precedent) State v. Leech, 20 P.3d. ,

because the Court did not set the course of rehabilitation ,

(see) I.C. § 19.2523, molded by I.C. title 66 at § 66.337, the intent of the law was the institutionalization be a Retained jurisdiction during the course of rehabilitation; and,

at the time of sentencing the Rehabilitation program was 90 days.

(d.) completion of program would remove any danger to society, and at the Courts discretion, probation could be imposed in a community setting to continue to monitor.

Noting: The Petitioner believes a violation of I.C. §19.2520 occurred - no evaluation.

Above, Leech 20P.3d is a violation of U.S.C.A., Amend. 8.; and continuing,

f.) Was the violation, immediately upon institutionalization, of I.C. §66.335, The Board of Corrections and Board of Health and Welfare, had not complied with §66.335 [which could have help guide the Court], had there been compliance to §66.335, then §66.337 would have corrected the Courts error, but

the Idaho Department of Corrections, also does share a portion of responsibility, for not

having an intake process, and rehabilitation - psychological care program in place that was compliant to § 66.337.

Here-upon, Due Process, cruel and unusual punishment have occurred, drawing out an Ex Post Facto violation.

II.

Even if the law would have allowed a lengthy sentence; Punishment under I.C. § 19.2513,
{ that is not allowed }

a) The Court, ..., at time of sentencing did not know and could not anticipate that the defendant would succumb to physical and psychological impairment.

Outside of the criminal case, once the Petitioner became disabled, he was extended protections under the Americans With Disabilities Act, 28 C.F.R. Part 35, and other disability Law.

Here-upon, Ref: Penal Policy 303.02.01.003, at 05.17 and last page - Petitioner was supposed to be amendable to release into a community setting under A.O.A Integrated Settings, at Olmstead v. L.C., 119 S.Ct. 2176 (1999).

However, the Idaho Board of Pardons and Parole, and Parole Commission have re-written the Statute, I.C. § 20.223 (etc), and will not grant

any Parole for "permanently incapacitated" and said is now only available for terminally ill, within one year of death.

(Id.) Said have not complied with the core-mandates of the A.D.A., (see) Ida. Sup. Ct., Jan 1998, En re. (A.D.A.) Orders.

b.) C.R. pg. 026, Watkins cv-06, Internally cited Res-judicada found the Board/Commission violated U.S.C.A., Amend. 8, by the delay, at this time denial of psychological care, Making Parole an impossibility.

c.) The Parole Board having denied access to Parole, quas. or directly, the declaration is the Petitioner is a Violent Sexual Predator;

However, (C.R. pg 017), C.R. pg. 025, The Idaho Supreme Court, Smith, Feb 2009, has found Bad Faith-non compliance to law, makes such a determination beyond the Boards reach; (Id.) and would be removed by Rehabilitation.

In Conclusion

It is not impossible to believe that an individual, who has only a sixth grade education, would believe the Prosecutor, Defence Council, or Court as to the standards of law; and,

then be prejudiced because his lack of education, and misinformation;

Prejudiced by an excessive sentence, prejudiced by loss of right(s) to redress, because he neither knew the standards or had ability to present the standards. (R.C.M. p. 33, 55, Appeal, Habeas, etc.);

this is shown in C.R. pg 20-22, he did not know what type of action to file for redress;

and this is only exacerbated by the listed cause and prejudice, etc.

Remand to District Court, is requested;

1/10/72
1/10/72

That here-in, finally (?) the issue is properly stated, that is reviewable under a Post-Conviction,

1. The Instant Case defined in Leech 20 P.3d
2. The Instant Case defined in Statue
3. The Instant Case defined in Smith, Feb. 2009
4. The Instant Case defined in Watkins

(et. seq.)

In-Other-words, a genuine issue has been raised, affirmed in the Record,
thus Evidencing would be appropriate rather than dismissal

please help me to have my issues
heard.

Respectfully

Thomas Coffert #30459
Thomas Coffert

This 17 day of October 2013

A True and correct copy to
IDOC Legal

~~Edo~~ IDOC Legal
1299 N. Orchard #110
Boise Idaho 83706